SIKKIM

GOVERNMENT GAZETTE

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Government of Sikkim
(Women and Child Development Division)
Social Justice, Empowerment and Welfare Department
Gangtok

No.55/2008-09/SJE&WD **Date:-30/07/2008**

NOTIFICATION

In exercise of the powers conferred by **Section 36** of the Commission for Protection of Child Rights Act, 2005 (No. 4 of 2006), the Sikkim State Government hereby makes the following Rules, namely:-

1. Short title and Commencement

(1) These rules may be called the Sikkim Commission for Protection of Child Rights Rules, 2007.

(2) They shall come into force on the date on which the Commission for Protection of Child Rights Act, 2005(No. 4 of 2006) shall come into force.

2. Definitions

In these rules, unless the context otherwise requires,-

(a) "Act" means the Commission for Protection of Child Rights Act, 2005(4 of 2006);

(b) "Commission" means the Sikkim Commission for Protection of Child Rights constituted under Section 17;

(c) "Chairperson" means the Chairperson of the Commission;

(d) "Member" means the Member of the Commission;

(e) "Secretary" means the Secretary of the Commission;

(f) "Section" means a section of the Act;

(g) words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. *Eligibility for appointment as Chairperson and other Members*

No person having any past record of violation of human rights or child rights shall be eligible for appointment as Chairperson or other Members of the Commission.

4. *Secretary*

(1) The Secretary appointed by the State Government shall have a minimum tenure of three years.

5. *Powers and duties of the Secretary*

(1) The Secretary shall-

(i) have powers to execute all decisions taken by the Commission in order to carry out the powers and functions of the Commission as provided in **sections 13 and 14;**

(ii) exercise and discharge such powers and perform such duties as are required for the proper administration of the affairs of the Commission and its day to day management as mentioned in **section 11;**

(iii) convene the meetings of the Commission in consultation with its Chairperson and serve notices of the meetings to all concerned;

(iv) take steps to ensure that the quorum required for convening a meeting of the Commission is secured;

(v) in consultation with the Chairperson, prepare the agenda for each meeting of the Commission and shall have notes prepared by the Secretariat and such notes shall, as far as possible, be self-contained;

(vi) make available specific files covering the agenda items to the Commission for reference;

(vii) ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting, except in cases when urgent attention is required;

(viii) prepare the minutes of the meetings of the Commission and shall execute the decisions of the Commission taken in the meeting and shall also ensure placing of the Action Taken Note of the decisions of the Commission before the Commission in its subsequent meetings;

(ix) ensure that the procedure of the Commission is followed by it in transaction of its business;

(x) take up all such matters with the State Government for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit report in the Legislative Assembly, re-appropriation of funds, residential accommodation, permitting any officer of the Commission for deputation abroad and any other matter requiring the approval of the State Government.

(xi) exercise such financial powers as are delegated to him by the Chairperson on behalf of the Commission:

Provided that no expenditure on an item exceeding one lakh rupees shall be incurred without the sanction of the Chairperson.

(xii) be the appointing and disciplinary authority in respect of officers and other employees of the Commission.

6. Terms of office of Chairperson and other Members

(1) The Chairperson shall, unless removed from officer under **section 7**, hold office for a period not exceeding three years, or till the age of sixty five years, whichever is earlier.

(2) Every Member shall, unless removed from office under **section 7**, hold office for a period not exceeding three years, or till the age of sixty years, whichever is earlier.

(3) Notwithstanding anything contained in **sub-rule (1)** or **sub-rule (2)**,

(a) a person who has held the office of Chairperson shall be eligible for re-nomination, and

(b) a person who has held the office of a Member shall be eligible for re-nomination as a member or nomination as a Chairperson:

Provided that a person who has held an office of Chairperson or Member for two terms, in any capacity shall not be eligible for re-nomination as Chairperson or, as the case may be, as Member.

(4) If the Chairperson is unable to discharge his functions owing to illness or other incapacity, the State Government shall nominate any other Member to act as Chairperson and the Member so nominated shall hold office of Chairperson until the Chairperson resumes office or till the remainder of his term.

(5) A vacancy caused by death, resignation or any other reason shall be filled-up by nomination within ninety days from the date of occurrence of such vacancy.

7. Salaries and Allowances

(1) The salaries and allowances of the Chairperson and Members shall be such as may be prescribed by the State Government.

Provided that where the Chairperson or any other Member is retired Government Servant or official from a State Government, Semi-Government body, public sector undertaking or recognized research institution, the salary payable together with the pension of pensinoary value of the terminal benefits, or both, received by him shall not exceed to the past pay drawn.

(2) The salary and allowance payable to, and the other terms and conditions of service of the Member-Secretary and the other officers and other employees, appointed for the purpose of the Commission shall be such as may be determined by the State Government from time to time.

(3) If the Chairperson or a Member is in service of the State Government, his salary shall be regulated in accordance with the rules applicable to him.

8. Sitting Allowance The Chairperson and every other Member shall receive sitting allowance for the meeting of the commission at rates admissible under the State Government.

9. Leave

The Chairperson and every other Member shall be entitled to leave as follows:-

(a) earned leave, half pay leave and commuted leave as admissible to State Government servants in accordance with the State Government Services(Leave) Rules 1982 as amended from time to time.

(b) Extraordinary leave as admissible to the temporary to the State Government Servants in accordance with the State Government Services (Leave) Rules 1982 as amended from time to time.

10. Leave sanctioning authority

(1) The State Government shall be the authority competent to sanction leave to the Chairperson.

(2) The Chairperson shall be the authority to sanction leave to every Member including the Secretary.

(3) The Secretary shall be the authority to sanction leave to any officer or other employee of the Commission.

11. Traveling allowance

(1) The Chairperson and every other Member shall be entitled to draw traveling allowances and daily allowance at the rates appropriate or as determined by the State Government.

(2) The Chairperson and every other Member shall be his own controlling officer in respect of his bills relating to traveling allowances and daily allowances.

12. Facility for conveyance

The Chairperson and every other Member shall be entitled to the facilities of staff car for journeys for official purpose as prescribed by the State Government.

13. Functions of the Commission

The Commission shall, in addition to the functions assigned to it under **clauses (a) to (j) of sub-section (1) of section 13** perform the following functions, namely:-

(a) analyze existing law, policy and practice to assess compliance with Convention on the Rights of the Child undertake inquiries and produce reports on any aspect of policy or practice affecting children and comment on proposed new legislation from a child rights perspective;

(b) present to the State Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;

(c) undertake formal investigations where concern has been expressed either by children themselves or by concerned person on their behalf;

(d) ensure that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives;

(e) promote, respect and serious consideration of the views of children in its work and in that of all Government Departments and Organizations dealing with child;

(f) produce and disseminate information about child rights;

(g) compile and analyze data on children;

(h) promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children.

14. Procedure for transaction of business

(1) The Commission shall meet regularly at its office at such time as the Chairperson thinks fit, but three months shall not intervene between its last meeting and the next meeting.

(2) The Commission shall ordinarily hold its meetings in its office but may, in its discretion, hold its meetings at any other place in Sikkim if it considers it necessary or expedient to do so.

(3) **Secretariat-Assistance:** The Member-Secretary, along with such officers as the Chairperson may direct shall attend the meetings of the Commission.

(4) (i) The Member-Secretary shall, in consultation with the Chairperson, prepare the agenda for each meeting of the Commission and shall have notes prepared by the Secretariat an such notes shall, as far as possible, be self-contained;

(ii) Specific files covering the agenda items shall be made readily available to the Commission for reference;

(iii) The agenda papers shall ordinarily be circulated to members at least two clear working days in advance of the meeting, except in case when urgent attention is required.

(5) Four members including the Chairperson shall form the quorum at every meeting of the Commission.

(6) All decisions of the Commission at its meetings shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding shall have and exercise a second or a casting vote.

(7) If, for any reason, the chairperson, is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.

15. Minutes of the Meeting

(1) The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer of the Commission as directed. Such minutes shall be submitted to the Chairperson approval and, upon approval, be circulated to all members of the Commission at the earliest and in any case, sufficiently before the commencement of the next meeting.

(2) The conclusions of the Commission in every matter undertaken by it shall be recorded in the form of an opinion. Dissenting opinions, if given, shall also form part of and be kept on record. Action shall be taken on the basis of majorityopinion where there is any difference of opinion.

(3) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly

authorized by the Secretary with the prior approval of the Chairperson in this behalf.

(4) Unless specifically authorized, no action shall be taken by the Secretariat of the Commission on the minutes of the meetings until the Chairperson confirms the same.

(5) A master copy of the record of all meetings and opinions of the Commission shall be maintained duly authenticated by the Secretary and a copy of the minutes pertaining to each item shall be kept in the respective files for appropriate action. Opinions shall be kept in respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

16. Report of Action Taken

Report of the follow up action shall be submitted to the Commission at every subsequent meeting indicating therein the present stage of action taken on each item on which the Commission had taken any decision in any of its earlier meetings, excepting the items on which no further action is called for.

17. Transaction of business outside of headquarters

The Commission or some Members may transact business at places outside its headquarters as and when previously approved by the Chairperson, provided that if parties are to be heard in connection with any inquiry under the Act, at least two members shall constitute the bench of the Commission for such purpose.

18. Panel of Consultants

The Commission may constitute a panel of consultants for assisting the Commission in a wide range of tasks such as investigation/ inquiry; to serve on task forces or Committees; for research and analysis etc. The Commission may draw on experts from academic research, administrative, investigative, legal or civil society groups to form the panel. The Commission may devise a transparent process for the empanelling these consultants so that they are available for quick delegation of tasks.

19. Annual Report

(1) The Commission shall prepare and publish an annual report before the 31st December, every year for submission to the State Government.

(2) The Commission shall also prepare special reports on specific issues as and when necessary under the direction of the Chairperson.

(3) The State Government shall cause the annual report and the special reports of the Commission to be laid before the State Legislative Assembly.

(4) The Special reports may be issued separately, if there is a time lag for the preparation of the annual report.

(5) The annual report shall include information on administrative and financial matters; complaints investigated/inquired into; action taken on cases; details of research; review; education and promotion efforts; consultations; details and specific recommendations of the Commission on any matter, besides any other matter that the Commission may consider warranting inclusion in the report.

(6) The forms in which the budget may be prepared and provided and forwarded to the State Government shall be as provided in forms I, II, III and IV of Schedule I.

(7) The estimated receipts and expenditure shall be accompanied by the revised budget estimates and the current year.

(8) The budget shall, as far as may be, based on the account heads specified in Schedule II.

20. Financial Powers

(1) The Commission shall spend the sums of money received by it for the purposes of the Act and shall maintain a separate Bank Account in the State Bank of Sikkim in order to have a smooth transaction.

(2) (1) The Chairperson shall be the authority to sanction the amount for the purpose of the Commission out of the fund allocated to the Commission by the State Government.

(2) The Member Secretary shall be Head of Office as well as Drawing and Disbursing Officer and shall exercise all powers as per the Sikkim Financial Rules, 1979 as amended from time to time.

(3) The Chairperson shall have all powers relating to financial transaction of the Commission, except in case, which require prior approval of the State Government.

(4) The Chairperson shall obtain prior approval of the State Government in matters of creation of posts, revision of pay scales, procurement of vehicles, re-appropriation of funds from one head to another, permitting any office of the Commission to participate in seminars, conference or training programmes abroad and such other matters determined by the State Government, by order.

(5) The Chairperson shall, subject to such conditions and limitations and control and supervision, have powers to delegate his/her financial powers to any Member or the Secretary.

Provided that no such powers shall be delegated in respect of incurring an expenditure on an item exceeding one lakh rupees without the prior approval of the Chairperson.

(6) The Chairperson shall have powers to engage any person or persons as consultant or consultants for a specific purpose and for a specific period on the terms and conditions agreed in advance relating to honorarium, traveling allowance, dearness allowance.

(7) The Member-Secretary shall have powers to execute all decisions taken by the Chairperson or any other Member on his/her behalf relating to financial matters.

Mrs. R.Ongmu,IAS
Principal Secretary
(Women and Child Development Division)
Social Justice, Empowerment and Welfare Department

SCHEDULE –I

FORM –I

THE STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS

Detailed Budget Estimates for the Year 200_____

(See rule 23(6))

ADMINISTRATION

(Expenditure)

Head of Accounts	Actual for the past three year			Sanctioned estimate for the current year 200.....	Actuals of last six months i.e. 200..... 200.....	Actuals of six months current year 200.....	Revised estimate for the current year 200....	Budget estimate for the next year 200.....	Variations between columns 5 & 8	Variations between columns 8 & 9	Explanation for columns 10 & 11
1	2	3	4	5	6	7	8	9	10	11	12

FORM – II

THE STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS

ESTABLISHMENT

Statement details of provision for pay of officers/Establishment for the year 200.....- 200.....

(See rule 23 (6))

1	2	3			4	5			6	7
Name and Designation	Reference to page of estimate form	Sanctioned pay of the Post			Amount of provisions for the year at the rate in column	Increment failing due within the year			Total provision for the year i.e. total columns 4 & 5	Remarks
		Minimum/Maximum Actual Pay of the Person concerned due on 1st April next year				Date of increment	Rate of increment	Amount of increment for the year		
		(a)	(b)	(c)	3 (c)	(a)	(b)	(c)		

FORM- III

THE STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS

NOMINAL ROLLS

(See rule 23(6))

Name and Designation	Pay	Dearness Allowance	Compensatory (City) allowance	House rent allowance	Over time allowance	Children educational allowance	Leave travel concession	Other allowances	Total
1	2	3	4	5	6	7	8	9	10
Total									

FORM- IV
THE STATE COMMISSION FOR PROTECTION OF CHILD RIGHTS
(Abstract of Nominal Rolls)
(See rule 23(6))

Actual sanctioned strength as on 1st March, 200.....	Particulars of posts	Sanctioned budget grant 20.....- 20.....		Revised Estimates 20.....- 20.....		Budget Estimates 20.....- 20.....		Explanation for the difference between sanctioned and budget estimates
		No, of posts included	Pay and allowances	No. of posts included	Pay and allowances	No. of posts included	Pay and allowances	
1	2	3	4	5	6	7	8	9
	I. Officer (a) Posts filled (b) Post vacant Total I officers II.Establishment (a) Posts filled (b) Post vacant Total II Establishment III. Class IV (a) Posts filled (b) Post vacant Total III-Class IV							
	GRAND TOTAL – I, II and III							

SCHEDULED – II
BUDGET AND ACCOUNT HEADS
(See rule 23 (8))
ADMINISTRATION
Heads of Accounts (Expenditure)

1. Salaries
2. Wages
3. Travel Expenses
4. Office Expenses
   - (a) Furniture
   - (b) Postage
   - (c) Office machines/equipment
   - (d) Liveries
   - (e) Hot and cold weather charges
   - (f) Telephones
   - (g) Electricity and water charges
   - (h) Stationery'
   - (i) Printing
   - (j) Staff car and other vehicles
   - (k) Other items
5. Fee and honoraria
6. Payment for professional and special services
7. Rents, rates and taxes/royalty
8. Publications
9. Advertising sales and publicity expenses
10. Grant in aid/contributions/subsidies
11. Hospitality expenses sumptuary allowances etc.
12. Pensions/gratituities
13. Write off/losses
14. Suspenses
15. Other charges(a residuary head, this will also include rewards and prizes) Heads of Account (Receipts)

1. Payments by State Government
2. Other receipts